

330 CMR 18.00: LAND USE

Section

18.01: Farm Land

18.02: Community Gardens

18.01: Farm Land

(1) Definitions.

Bureau. The Bureau of Agricultural Land Use within the Department of Food and Agriculture.

Chief. The Chief of the Bureau of Agricultural Land Use.

Farmer. Any person or group of persons granted a permit or lease for the use of vacant farmland in accordance with M.G.L. c. 20, §§ 13 through 19, for the commercial production of agricultural or horticultural products.

Integrated Pest Management. A system which combines all available pest control techniques to maintain pest populations below economically damaging levels. Control methods include cultural, biological, physical, and chemical techniques. Regular sampling of the crop determines whether pest populations have reached levels which will economically justify a control treatment. Management strategies are developed to provide an agricultural system which is least disruptive to the environment, most cost effective in the long run, most likely to be relatively permanent, and most in harmony with both short and long term human and environmental health.

(2) Agreements with Public Agencies.

- (a) Except for extenuating circumstances, such agreements shall be for a period of at least five years.
- (b) Standard agricultural practices shall be allowed including plowing and cultivation.

(3) Permits and Leases Issued to Farmers.

- (a) Unless terms have been dictated by special legislation, leasing procedure shall follow the Division of Capital Planning and Operations' procedures for leasing state-owned real property.
- (b) Leases shall be for a period of five years with an option to renew for an additional period of five years where possible.
- (c) One-year permits may be issued by the Chief where circumstances preclude a longer lease.
- (d) Leasing Procedures.
 - 1. Public Requests for Proposals (RFP's) for use of parcels of state-owned agricultural land shall be advertised in local newspapers and the Central Register.
 - 2. Persons wishing to make proposals for the use of state-owned farmland shall request from the Chief an RFP package which shall include a proposal form, field map, selection criteria, and a list of special restrictions pertinent to each parcel.
 - 3. Proposals may be submitted for one or more of the fields delineated on the map.
 - 4. Proposals must include a detailed management plan for the use of the land.
- (e) Permits and leases shall be awarded only to residents of the Commonwealth or to entities doing business in the Commonwealth having over half their ownership or trusteeship held by residents of the Commonwealth.
- (f) Multiple use of certain lands may be required and may be stipulated in the permit or lease. These may include among others, public access and/or use for recreation in the off season, rights of way, easements, and restrictions of record.
- (g) The Chief may refuse any and all proposals which do not fulfill the selection criteria or which the Chief deems not in public interest.
- (h) Permits and leases may be terminated by the Chief for non-fulfillment of terms. Permits and leases may be terminated by the Chief, after a hearing, for violation of 330 CMR 18.01.

18.01: continued

(4) Good Soil and Resource Management Practices Must Be Employed.

- (a) The agricultural management plan submitted with the proposal shall be incorporated into the lease and shall be subject to any restrictions imposed by the controlling agency.
- (b) The farmer shall use good agricultural and soil conservation practices with respect to such land (in accordance with a Conservation Plan where one is available) and shall take such steps as are necessary to prevent soil erosion, siltation or waterways pollution, or nuisance, and shall be subject to all applicable federal, state, and local regulations.
- (c) The Chief or controlling agency may require such practices as the use of cover crops, vegetative strips along waterways, wildlife cover and food strips, contouring, strip planting, and may restrict the use of fertilizers, herbicides, insecticides, or other chemicals.
- (d) Unless otherwise restricted, the use of fertilizers, herbicides, insecticides, and other chemicals shall be limited to those licensed and/or registered under Commonwealth of Massachusetts regulations and shall be used in accordance with all pertinent instructions and limitations.
- (e) Where guidelines exist in Massachusetts for the specific crops to be grown, the farmer shall use Integrated Pest Management practices to control pests on state-owned farmland.
- (f) A record shall be kept by the farmer of the date and results of all soil tests, the date and amount of all fertilizer and chemical applications, seeding dates, and yield data on each field. This record shall be made available to the Chief on an annual basis.
- (g) At the end of the permit or lease period, the land shall be in at least as good condition as it was at the beginning of such period.
- (h) In the event that agricultural use is to terminate with the permit or lease, the land shall be seeded down to a cover crop.

(5) General Conditions.

- (a) Permits and leases on public lands shall include farm use only.
- (b) Retail sales of farm products on the property shall not be permitted except when specific permission in writing is granted by all agencies having a controlling interest in the land, and an adequate amount of liability insurance is maintained by the permit holder or lessee.
- (c) No permanent structures may be erected.
- (d) Temporary structures, including fencing, necessary to the farm operation may be erected subject to removal at the termination of the permit or lease, unless otherwise agreed upon.
- (e) Any person or group of persons granted the use of farmland shall indemnify and save harmless the Commonwealth, the Department of Food and Agriculture and all of the Commonwealth's officers, agents and employees against suits and claims of liability of each name and nature arising out of, or in consequence of the use of such land.

18.02: Community Gardens

(1) Definitions.

Bureau. The Bureau of Agricultural Land Use within the Department of Food and Agriculture.

Chief. The Chief of the Bureau of Agricultural Land Use.

Group. Individuals organized for one or more garden projects.

Person. Any individual, partnership, corporation, association, or any other business unit.

18.02: continued

(2) Bureau.

- (a) The Bureau shall acquire land for gardening use from other public agencies by letters of agreement and forms provided by the Division of Capital Planning and Operations. The Bureau shall acquire land for gardening use from private landowners by letters of agreement.
- (b) Such agreements shall be for a minimum of one calendar year but multiple year agreements shall be encouraged and obtained whenever possible.
- (c) Land obtained under such agreements shall be made available to civic groups or groups organized for gardening purposes or to responsible individuals who agree to form a gardening group and act in cooperation with the Bureau in promoting community gardening on subject land.
- (d) The Bureau shall provide technical and practical assistance when possible either directly or through cooperating agencies.
- (e) Agreements with the gardening group(s) shall cover one calendar year and shall be renewable at the discretion of the Chief.
- (f) The Chief shall provide application forms for use by gardening groups in applying for available land as well as forms for use by groups in allocating plots to participants. These shall be made available as early in the season as feasible, and the Chief may set appropriate time schedules for their submission and action thereon.

(3) The Gardening Group.

- (a) The Group shall agree to carry out all the stipulations of M.G.L. c. 20 §§ 13 through 19 and of 330 CMR 18.02.
- (b) The Group shall make the following provisions for the gardening operation:
 - 1. A person with gardening experience elected or otherwise granted authority by the Group to act as Coordinator and liaison with the Bureau.
 - 2. A garden plan showing plots, paths, access, parking.
 - 3. Provisions for security and fencing as required.
 - 4. Provisions for water, composting of organic wastes, disposal of non-organic wastes.
- (c) The Group shall submit the application with the garden plan as early in the year as possible.
- (d) Gardening activities shall commence within a reasonable time of the date proposed in the garden plan, or the plot may be subject to forfeiture at the discretion of the Chief.
- (e) Major changes in overall garden plans shall require approval of the Chief.
- (f) Priority in the allotment of vacant land for gardening purposes shall be given to elderly persons of low income, families of low income, and children between the ages of seven and 16, inclusive, as provided in M.G.L. c. 20.
- (g) Applicants other than the above mentioned shall be allotted land after the priority group selections.
- (h) Inexperienced persons should be accompanied by an experienced gardener or should apply for assistance to the group Coordinator or the appropriate agency.
- (i) The size of the plot allocated shall be based on need of the individual or group as well as the ability to maintain the assigned amount of land.
- (j) In the allotment of garden plots, food production shall be encouraged over other forms of gardening.
- (k) No permanent fixtures shall be installed on any plot except as authorized by the Chief with approval of the controlling agency.
- (l) Products grown in gardens may not be sold. However, 330 CMR 18.02 does not prohibit free distribution of such products. Sale of products may result in forfeiture of gardening rights.
- (m) An annual report shall be provided to the Chief which outlines the following:
 - 1. All income from the collective gardening maintenance charge set by the Group.
 - 2. The manner in which such income was spent.
 - 3. Total number of persons who actively gardened on the plot during the season.
 - 4. An estimate of the total volume of food crops produced on the plot during the season.

18.02: continued

(4) Participants (Gardeners).

- (a) Gardeners shall maintain neat gardens, free from mature weeds and operate within their allotted space and with due regard for others.
- (b) Gardeners shall be responsible for full compliance with all Federal and State laws and regulations regarding the use of pesticides, other chemicals and illegal plants on the allotted land. Only those pesticides classified for general use shall be employed. Individual gardeners are prohibited to use herbicides or fertilizers which contain herbicides. Failure to comply with 330 CMR 18.02(4) may result in immediate forfeiture of gardening rights.
- (c) At the end of the gardening year, the land shall be left in at least as good condition as it was at the beginning of such period.
- (d) Gardeners who have grossly abused the land allotted will forfeit their right to its use.

(5) Violations. The Chief shall have the power to terminate group or individual participant contracts in the event of violations of 330 CMR 18.02 after a hearing.

(6) Liability. Any person or group who is granted the use of garden shall indemnify and save harmless the Commonwealth, the Department of Food and Agriculture and all of the Commonwealth's officers, agents and employees against suits and claims of liability of each name and nature arising out of, or in consequence of the use of vacant land.

REGULATORY AUTHORITY

330 CMR 18.00: M.G.L. c. 20, § 18.

(PAGES 113 THROUGH 116 ARE RESERVED FOR FUTURE USE.)